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In re Application of	:	
Love et al.	:	
Application No. 10/089,276	:	DECISION ON
PCT No.: PCT/AU00/00919	:	
Int. Filing Date: 02 August 2000	:	PAPERS UNDER
Priority Date: 30 September 1999	:	
Atty. Docket No.: CU-2882 RJS	:	37 CFR 1.42
For: Single Mode Optical	:	
Waveguide Fibre	:	

This is in response to the papers filed on 18 July 2002, which are being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 02 August 2000, and claimed a priority date of 30 September 1999. The International Bureau transmitted a copy of the published international application to the USPTO on 05 April 2001. A Demand electing the United States was filed before the expiration of 19 months from the priority date. Accordingly, the 30 month time period to file the basic national fee in the U.S. expired as of midnight on 30 March 2002.

On 27 March 2002, applicants filed *inter alia* the required basic national fee, but did not file an executed oath or declaration of the inventors.

On 13 June 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(e).

The instant papers were filed on 18 July 2002.

DISCUSSION

Inspection of the declaration reveals that it has been signed by Jane Large, as "executor(trix) of the last will and testament of" deceased joint inventor Michael Large. 37 CFR 1.42 provides in part that

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or

declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

Former § 1.44 required that proof of the authority of the legal representative be submitted. Effective 08 September 2000, § 1.44 was removed and reserved. The requirement to submit proof of legal authority was thereby eliminated. Thus, the signature and accompanying identification of the legal representative is sufficient to establish that the legal representative may make application on behalf of the deceased inventor.

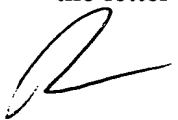
Review of the copy of the declaration filed on 03 June 2002 reveals that it is unclear whether joint inventors John Love, David Thorncraft, Ronald Bailey, Simon Fleming, Mark Sceats, Leon Poladian, Thomas Ryan and Peter Krug signed complete declarations, since the declarations bearing their signatures do not include page 7 of 7.

DECISION

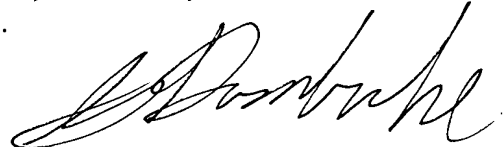
The papers under 37 CFR 1.42 are **ACCEPTED**.

Applicants are required to file a proper response within **TWO (2) MONTHS**, including a new oath or declaration of the inventors and/or an explanation of whether "page 7 of 7" was in fact missing as discussed above. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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